

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BRIAN MCFADDEN,

Plaintiff,

vs.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant

Civil No. C07-1310-RSL

ORDER FOR REMAND

Based on the stipulation of the parties, it is hereby ORDERED that the above-captioned case be reversed and remanded for a de novo hearing (i.e., without regard to any prior adjudication) and further administrative proceedings, including but not limited to the following: the administrative law judge (ALJ) will consider the reopening of the denial determinations based on Plaintiff's earlier applications pursuant to the regulations; recognize that a single decision maker is not a physician; re-evaluate the medical source opinions; re-evaluate Plaintiff's mental impairments; evaluate any substance use consistent with 20 C.F.R. §§ 404.1535, 416.935 (2007), and *Bustamante v. Massanari*, 262 F.3d 949 (9th Cir. 2001), as well as all other appropriate case law; obtain medical expert input from a specialist in psychiatry to determine the severity of Plaintiff's mental impairments with and without substance abuse; re-evaluate Plaintiff's residual functional capacity and, although Defendant does not concede error in his assessment of Plaintiff's credibility, further evaluation of Plaintiff's credibility is appropriate consistent with re-evaluation

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3 of Plaintiff's mental impairments, medical source evidence, and substance use; follow the  
4 sequential evaluation process; and, if necessary, obtain vocational expert testimony at step five of  
5 the sequential evaluation process.

6 No specific aspect of the ALJ's decision is affirmed, Plaintiff may submit additional  
7 evidence and arguments on remand, and this remand is made pursuant to sentence four of 42  
8 U.S.C. § 405(g).  
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10 Upon proper presentation, this Court will consider Plaintiff's application for costs and  
11 attorney's fees under 28 U.S.C. § 2412(d) and 42 U.S.C. § 406(b).

12 DATED this 14<sup>th</sup> day of February,  
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15 Robert S. Lasnik  
16 United States District Judge

17  
18 Recommended for Entry:  
19 this 14th day of February, 2008.

20 s/ Mary Alice Theiler  
21 United States Magistrate Judge

22 Presented by:

23 s/ Thomas M. Elsberry  
24 THOMAS M. ELSBERRY WSB # 26456  
25 Special Assistant U.S. Attorney  
26 Attorney for Defendant  
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